HON'BLE SRI JUSTSICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 25950 of 2007

06.12.2007

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Between:

N. Dhanalakshmi & others

… Petitioners

AND

The District Collector,
West Godavari District, Eluru
& another

… Respondents

Counsel for the petitioners : Sri Sai Gangadhar Chamarthy

Counsel for the respondents : Assistant Government Pleader for Land Acquisition.

O R D E R:

This writ petition is filed for a writ of mandamus to declare the action of the respondents in not furnishing the decision on the objections filed by the petitioners in the enquiry held under Section 5-A of the Land Acquisition Act, 1894 (for short, 'the Act') as illegal, arbitrary and violative of Article 300-A of the Constitution of India.

Heard learned counsel for the petitioners and learned Assistant Government Pleader for Land Acquisition.

The only grievance as projected by the learned counsel for the petitioners at the hearing is that though the petitioners submitted their

objections to the proposal to acquire their lands under acknowledgement dated 05.11.2007 and approached respondent No.2 on 30.11.2007 to furnish a copy of the decision on the objections raised by them, so far, they have not been supplied with the same. The learned counsel further contended that unless the decision on the objections is made available to the petitioners, they may not be in a position to question the declaration made under Section 6 of the Act and further proceedings in pursuance thereof.

Learned Assistant Government Pleader for Land Acquisition says that the respondents are bound to furnish a copy of the decision and that he will have no objection if a direction to that effect is given to them.

It is needless to observe that the fairness and equity require that the owner of the property, which is sought to be acquired, shall be supplied with a copy of the decision to enable him/her to question the same. The respondents would do well to remember that the act of acquisition is more often against the will of the owners of the land and in exercise of the power of eminent domain by the State, the owner of the land is entitled to be given reasonable opportunity in every respect to question the decision of the State to acquire his/her land. If the objections to the acquisition of the land are rejected, the owner is entitled to canvass the validity or otherwise of such rejection before an appropriate Court of law.

Therefore, denial of the report/decision on the objections raised by the owners of the land amounts to denial of remedy to them. Such an action cannot be countenanced under the Constitution.

In the result, the writ petition is disposed of. Respondent No.2

shall forthwith supply to the petitioners a copy of the report sent by him to respondent No.1 and the order, if any made by the latter on such report in respect of the proposal to acquire their lands.

For a period of two weeks from today, the respondents shall not proceed further in respect of the proposed acquisition of petitioners' lands.

As a sequel to disposal of the writ petition, W.P.M.P.No. 33829 of 2007 filed by the petitioners for interim relief is disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

06.12.2007
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